

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JULIE ANGELONE,
Plaintiff,

COMPLAINT
Civ. No.:

v.

XEROX CORPORATION,
Defendant.

JURY TRIAL DEMANDED

Plaintiff demands a jury to try all claims triable by a jury.

PRELIMINARY INTRODUCTION

1. This is an action brought pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000 et seq., as amended, and the New York State Human Rights Law, Executive Law § 290 et seq., alleging that Plaintiff was intentionally, unlawfully and/or willfully discriminated against because of her gender, for a continuing hostile environment based on sex, and for retaliation for engaging in protected activity.

JURISDICTION AND VENUE

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 and 1333, 42 U.S.C. § 2000 (e), 29 U.S.C. § 1331, 29 U.S.C. §§ 206 and 216; the Court also has supplemental jurisdiction pursuant to 28 U.S.C. § 1337 to adjudicate Plaintiff's claims under state law.

3. Venue is proper pursuant to 28 U.S.C. § 1331.

4. Plaintiff filed a charge of discrimination with the Equal Employment Opportunity Commission (“EEOC”) on March 31st, 2008, on September 23rd, 2008, and finally, on January 13th, 2009. Less than 90 days have elapsed since the Plaintiff’s receipt of her Notice of Right to Sue and her subsequent filing of the original complaint in this matter.

5. Plaintiff reserves the right to amend her complaint to add any further charges of post-termination retaliation as a result of filing this lawsuit.

PARTIES

6. Plaintiff is an individual woman who was at all times relevant herein a long term employee of the Defendant Xerox, (“defendant”) and a resident of the County of Monroe, State of New York.

7. Defendant is a domestic corporation organized under the laws of the State of New York.

FACTS

8. Angelone was a long term employee of the defendant, having been employed by the defendant since 1986.

9. For all relevant times herein, Angelone maintained a stellar work record as a “Manager.”

10. On or about June 15th, 2007, Angelone in good faith, and based upon a good faith basis to believe she had been subject to unlawful conduct under Title VII and the New York Executive Law, made a complaint to defendant's department of Human Resources ("HR") that she believed to be subject to a hostile environment based on sex.
11. Specifically, Angelone claimed in good faith that she had observed Supervisor Dick Manca ("Supervisor Manca") acting in a sexually inappropriate manner with several female co-workers in the workplace, including leering, touching, fondling, and sex-based language not appropriate for the workplace.
12. Thereafter, Angelone was subject to isolation, ridicule, and retaliation by the very co-workers she had reported, including Supervisor Manca.
13. These same co-workers then violated the confidentiality of the investigation into Angelone's claims of a hostile environment by speaking openly about Angelone's confidential complaints in the workplace, debasing and impugning the reputation of Angelone, a stellar long term employee of the defendant whose complaints made in good faith to HR were mandated to be held in confidence by defendant's own policies.

14. The stress of the accusations and attacks by her co-workers and supervisors became so overwhelming that Angelone was taken off of work and placed on disability; in fact, Angelone's HR manager informed her that "*something is going to happen to [her] if [she] [doesn't] go on disability,*" which Angelone took as a threat.
15. On July 17th, 2007, Angelone again informed HR that she felt she had become subject to a hostile environment; in response, HR informed Angelone that the results from her first complaint were revealed that morning and that she "*would not believe*" *what her co-workers had "said about [her]" and that she would "never find out what they said.*"
16. Angelone then informed HR that she was going to see a lawyer; HR replied: "*Julie, just let Xerox go.*"
17. Angelone went out on disability and returned in December of 2007 to learn that she would *now be reporting to Dick Manca, the supervisor who was the subject of her first complaint to HR.*
18. After being assigned to Supervisor Manca, Angelone heard him say to another female co-worker "*don't worry, we'll get her out of here.*"

19. Angelone was removed from Senior Staff Meetings and Teams.
20. Angelone was moved to a “closet-like” office from a window office.
21. While assigned to Supervisor Manca, he insists on a consistent basis that Angelone “walk in front” of him; he informs Angelone that “his wife is out of town” and states in conversation with other management employees that “when the cat is away, the mouse will play.”
22. Angelone attempted to make yet another complaint to HR about Supervisor Manca’s conduct, but HR refused to return Angelone’s phone calls, further dissuading her from making complaints in the workplace.
23. Since January 2008, Angelone had attempted to apply for positions to transfer away from Supervisor Manca, to no avail.
24. As a reasonable person, Angelone had been dissuaded yet again from making complaints in the workplace based on the defendant’s refusal to take any remedial action.

25. On March 31, 2008, Angelone filed her initial charge of discrimination charging the defendant with unlawful discriminatory practice relating to employment in violation of Title VII of the Civil Rights Act of 1964 (hostile environment on the basis of sex/retaliation) and the New York State Executive Law, Article 15, Section 296, of the State of New York Human Rights Law, and for retaliation under those statutes as well, as well as for perceived disability under the ADA.
26. Thereafter, Angelone was subject to further retaliatory harassment.
27. Senior staff deliberately removed Angelone from the (SP & L) staff meetings for which Angelone had previously attended.
28. Senior staff deliberately removed Angelone from distribution for (MBB) and (SP & L) communications for which she had previously been a recipient.
29. Angelone was further denied any meaningful or additional work by Supervisor Menca, and spent most of her time idle.

30. Further, on June 12th, 2008, *Supervisor Menca reported Angelone to the defendant's Ethics Committee*, compelling senior staff members to approach Angelone in front of peers and subordinates that HR and Security would like to speak to her, further humiliating her in the workplace.

31. On July 1st, 2008, HR contacts Angelone and asks her "what does she want" with regard to her complaint of discrimination, but fails to take any remedial action whatsoever.

32. On August 21st, 2008, Angelone is admonished by senior management that ***she can no longer make complaints to HR***, but must complain directly to Supervisor Manca, *the very individual she claims is creating a hostile environment.*

33. Angelone is admonished by senior management that she must report all complaints to Supervisor Manca, *whether she is comfortable with him or not.*

34. On September 8th, 2008, senior management sent to Angelone a written “Complaint Resolution” statement, in which, for some odd reason, it is pointed out to Angelone that “the complaint you made in 2007 was quickly and thoroughly investigated at that time” further disciplining Angelone for sending an email to Supervisor Menca deemed “not appropriate.”

35. On September 23rd, 2008, Angelone is compelled yet again to file another charge of discrimination with the EEOC setting forth in good faith what she believed to be retaliation for having filed her first charge of discrimination with the EEOC.

36. The defendant took no further remedial action with regard to Angelone’s complaints.

37. Left with the prospect of being further harassed, humiliated and retaliated against, having been admonished that she could make no further complaints to defendants HR department, and after giving the defendant a myriad of occasions to take remedial action, Angelone was constructively discharged from her long term position in retaliation for having engaged in protected activity on December 2nd, 2008.

FIRST CAUSE OF ACTION
DISCRIMINATION IN EMPLOYMENT UNDER TITLE VII

38. Plaintiff incorporates by reference each and every allegation contained in the above stated paragraphs and incorporates the same as though fully set forth herein.
39. Defendant, through its agent(s), engaged in a continuing pattern of unremedied sex discrimination by subjecting Plaintiff to unwelcome sexual harassment through the creation of a hostile work environment in violation of Title VII of the Civil Rights Act of 1964, as amended.
40. Defendant at all times relevant herein had actual and constructive knowledge of the conduct described herein.
41. The above described unwelcome sexual harassment by defendant's agent(s) created an intimidating, oppressive work environment which interfered with the Plaintiff's well being.
42. As a result of the hostile and offensive work environment, perpetrated and maintained by defendants, and each of them, and their failure to protect the Plaintiff from further harassment, the Plaintiff suffers from severe emotional distress.

43. Defendants violated Title VII of the Civil Rights Act of 1964, as amended, by failing to adequately supervise, control, discipline, and/.or otherwise penalize the conduct, acts and failures to act of the defendants as described above.
44. Defendant failed to comply with its duty to take all reasonable and necessary steps to eliminate sexual harassment from the workplace and to prevent it from occurring in the future.
45. As a direct and proximate result of the defendant's willful, knowing and intentional discrimination against her, Plaintiff has suffered and will continue to suffer pain and suffering and extreme and severe mental anguish and emotional anguish and emotional distress; she has incurred and will continue to incur medical expenses for treatment by health care professionals, and for other incidental expenses, and she has suffered and will continue to suffer a loss of earnings and other employment benefits and job opportunities. Plaintiff is thereby entitled to general and compensatory damages in amounts to be proven at trial.
46. As a further and proximate result of defendant's violations of Title VII of the Civil Rights Act of 1964, as amended, Plaintiff has been compelled to retain the services of counsel in an effort to enforce the terms and conditions of the employment relationship with defendant, and has thereby incurred and will continue to incur, legal fees and costs, the full

nature and extent of which are presently unknown to the Plaintiff.

Plaintiff further requests that attorney fees be awarded.

47. Plaintiff is informed and believes, and based thereon alleges, that the outrageous conduct of defendant described above was done with fraud, oppression and malice, with a conscious disregard for her rights, and with the intent, design, and purpose of injuring her. Plaintiff is further informed and believes that defendant authorized, condoned and/or ratified the unlawful conduct alleged herein, specifically. By reason thereof, Plaintiff is entitled to exemplary damages from all defendants in a sum to be adduced at trial.

**SECOND CAUSE OF ACTION
SEXUAL HARASSMENT UNDER NEW YORK STATE EXECUTIVE LAW**

48. Plaintiff incorporates by reference each and every allegation contained in the above stated paragraphs and incorporates the same as though fully set forth herein.

49. Defendant, through its agent, engaged in a continuing pattern of unremedied sex discrimination by subjecting Plaintiff to unwelcome sexual harassment through the creation of a hostile work environment in violation of The New York State Human Rights Law, ("NYSHRL") Executive § 290, et seq. This claim does not raise a novel or complex issue of law.

50. Defendant at all times relevant herein had actual and constructive knowledge of the conduct described herein.
51. The above described unwelcome sexual harassment by defendant's agent created an intimidating, oppressive work environment which interfered with the Plaintiff's well being.
52. As a result of the hostile and offensive work environment, perpetrated and maintained by defendant, and its failure to protect the Plaintiff from further harassment, the Plaintiff suffers from severe emotional distress.
53. Defendants violated the NYSHRL as amended, by failing to adequately supervise, control, discipline, and/or otherwise penalize the conduct, acts and failures to act of the defendant as described above.
54. Defendant failed to comply with their duty to take all reasonable and necessary steps to eliminate sexual harassment from the workplace and to prevent it from occurring in the future.
55. As a direct and proximate result of the defendant's willful, knowing and intentional discrimination against her, Plaintiff has suffered and will continue to suffer pain and suffering and extreme and severe mental anguish and emotional anguish and emotional distress; she has incurred and will continue to incur medical expenses for treatment by health care

professionals, and for other incidental expenses, and she has suffered and will continue to suffer a loss of earnings and other employment benefits and job opportunities. Plaintiff is thereby entitled to general and compensatory damages in amounts to be proven at trial.

**THIRD CAUSE OF ACTION
RETALIATION UNDER TITLE VII**

56. Plaintiff incorporate by reference each and every allegation contained in the above stated paragraphs, and incorporates the same as though fully set forth herein.
57. Defendant engaged in a pattern of illegal retaliation in violation of Title VII of the Civil Rights Act of 1964. On or about June 15th, 2007, in good faith, and based upon a good faith basis to believe she had been subject to unlawful conduct under Title VII and the New York Executive Law, Angelone made a complaint to defendant's HR department that she believed to be subject to a hostile environment based on sex. Specifically, Angelone claimed in good faith that she had observed Supervisor Manca acting in a sexually inappropriate manner with several female co-workers in the workplace. Thereafter, Angelone was subject to isolation, ridicule, and retaliation by the co-workers who she reported, including Supervisor Manca, on that basis, and on the basis that they perceived Angelone to be unstable following the death of her young son. These same co-workers then violated the confidentiality of the investigation into Angelone's

claims of a hostile environment by speaking openly about it in the workplace, debasing and impugning the reputation of Angelone, a stellar long term employee of the defendant whose complaints made in good faith to HR were mandated to be held in confidence by defendant's own policies. The stress became so overwhelming that Angelone was taken off of work and placed on disability; in fact, Angelone's HR manager informed her that "something is going to happen to [her] if [she] [doesn't] go on disability," which Angelone took as a threat. On July 17th, 2007, Angelone again informed HR that she felt she had become subject to a hostile environment; in response, HR informed Angelone that the results from her first complaint were revealed that morning and that she "*would not believe*" *what her co-workers had "said about [her]" and that she would "never find out what they said.*" Angelone then informed HR that she was going to see a lawyer; HR replied: "*Julie, just let Xerox go.*" Angelone went out on disability and returned in December of 2007 to learn that she would *now be reporting to Dick Manca, the supervisor who was the subject of her first complaint to HR.* After being assigned to Supervisor Manca, Angelone heard him say to another female co-worker "don't worry, we'll get her out of here." Angelone was removed from Senior Staff Meetings and Teams. Angelone was moved to a "closet-like" office from a window office. While assigned to Supervisor Manca, he insists on a consistent basis that Angelone "walk in front" of him; he informs Angelone that "his wife is out of town" and states in conversation with other management employees that "when the cat is away, the mouse

will play.” Angelone attempted to make yet another complaint to HR about Supervisor Manca’s conduct, but HR never returned Angelone’s phone calls, further dissuading her from making complaints in the workplace. Since January 2008, Angelone had attempted to apply for positions to transfer away from Supervisor Manca, to no avail. As a reasonable person, Angelone had been dissuaded yet again from making complaints in the workplace based on the defendant’s refusal to take any remedial action. On March 31, 2008, Angelone filed her initial charge of discrimination charging the defendant with unlawful discriminatory practice relating to employment in violation of Title VII of the Civil Rights Act of 1964 (hostile environment on the basis of sex/retaliation) and the New York State Executive Law, Article 15, Section 296, of the State of New York Human Rights Law, and for retaliation under those statutes as well, as well as for perceived disability under the ADA. Thereafter, Angelone was subject to further retaliatory harassment. Senior staff removed Angelone from the (SP & L) staff meetings for which Angelone had previously attended. Senior staff removed Angelone from distribution for (MBB) and (SP & L) communications for which she had previously been a recipient. Angelone was further denied any meaningful or additional work by Supervisor Menca. Further, on June 12th, 2008, *Supervisor Menca reported Angelone to the defendant’s Ethics Committee*, compelling senior staff members to approach Angelone in front of peers and subordinates that HR and Security would like to speak

to her, further humiliating her in the workplace. On July 1st, 2008, HR contacts Angelone and asks her “what does she want” with regard to her complaint of discrimination, but fails to take any remedial action whatsoever. On August 21st, 2008, Angelone is admonished by senior management that *she can no longer make complaints to HR*, but must complain directly to Supervisor Manca, *the very individual she claims is creating a hostile environment*. Angelone is admonished by senior management that she must report all complaints to Supervisor Manca, *whether she is comfortable with him or not*. On September 8th, 2008, senior management sent to Angelone a written “Complaint Resolution” statement, in which, for some odd reason, it is pointed out to Angelone that “the complaint you made in 2007 was quickly and thoroughly investigated at that time” further disciplining Angelone for sending an email to Supervisor Menca deemed “not appropriate.” On September 23rd, 2008, Angelone is compelled yet again to file another charge of discrimination with the EEOC setting forth in good faith what she believed to be retaliation for having filed her first charge of discrimination with the EEOC. The defendant took no further remedial action with regard to Angelone’s complaints. Left with the prospect of being further harassed, humiliated and retaliated against, having been admonished that she could make no further complaints to defendants HR department, and after giving the defendant a myriad of occasions to take remedial action,

Angelone was constructively discharged from her long term position in retaliation for having engaged in protected activity on December 2nd, 2008.

58. As a direct and proximate result of defendant's willful, knowing and intentional discrimination against her, Plaintiff has suffered and will continue to suffer severe mental and emotional anguish, and she has suffered and will continue to suffer a loss of earnings and other employment benefits and job opportunities. Plaintiff is thereby entitled to general and compensatory damages in amounts to be proven at the time of trial.
59. As a further and proximate result of the defendant's violations of Title VII, Plaintiff has been compelled to retain the services of counsel in an effort to enforce the terms and conditions of the employment relationship with defendants and each of them, and has thereby incurred and will continue to incur, legal fees and costs, the full nature and extent of which are presently unknown to the Plaintiff. Accordingly, Plaintiff requests that attorney fees be awarded.
60. Defendant's conduct as described herein was malicious and oppressive, and done with a conscious disregard of Plaintiff's rights. The acts were

performed with the knowledge of an employers' economic power over its employees. Defendant ratified the unlawful conduct of its employees in this action. Consequently, Plaintiff is entitled to exemplary damages from all defendants.

FOURTH CAUSE OF ACTION

**RETALIATION UNDER NEW YORK STATE HUMAN RIGHTS LAW, EXECUTIVE LAW SECTION 290
et seq.**

61. Plaintiff incorporate by reference each and every allegation contained in the above stated paragraphs and incorporates the same as though fully set forth herein.
62. Defendant engaged in a pattern of illegal retaliation in violation of New York State Human Rights Law, Executive Law Section 290 et seq. On or about June 15th, 2007, in good faith, and based upon a good faith basis to believe she had been subject to unlawful conduct under Title VII and the New York Executive Law, Angelone made a complaint to defendant's HR department that she believed to be subject to a hostile environment based on sex. Specifically, Angelone claimed in good faith that she had observed Supervisor Manca acting in a sexually inappropriate manner with several female co-workers in the workplace. Thereafter, Angelone was subject to isolation, ridicule, and retaliation by the co-workers who she reported, including Supervisor Manca, on that basis, and on the basis that they perceived Angelone to be unstable following the death of her young son. These same co-workers then violated the confidentiality of the

investigation into Angelone's claims of a hostile environment by speaking openly about it in the workplace, debasing and impugning the reputation of Angelone, a stellar long term employee of the defendant whose complaints made in good faith to HR were mandated to be held in confidence by defendant's own policies. The stress became so overwhelming that Angelone was taken off of work and placed on disability; in fact, Angelone's HR manager informed her that "something is going to happen to [her] if [she] [doesn't] go on disability," which Angelone took as a threat. On July 17th, 2007, Angelone again informed HR that she felt she had become subject to a hostile environment; in response, HR informed Angelone that the results from her first complaint were revealed that morning and that she "*would not believe*" *what her co-workers had "said about [her]" and that she would "never find out what they said.*" Angelone then informed HR that she was going to see a lawyer; HR replied: "*Julie, just let Xerox go.*" Angelone went out on disability and returned in December of 2007 to learn that she would *now be reporting to Dick Manca, the supervisor who was the subject of her first complaint to HR.* After being assigned to Supervisor Dick Manca, Angelone heard him say to another female co-worker "don't worry, we'll get her out of here." Angelone was removed from Senior Staff Meetings and Teams. Angelone was moved to a "closet-like" office from a window office. While assigned to Supervisor Manca, he insists on a consistent basis that Angelone "walk in front" of him; he informs Angelone that "his wife is out of town" and states in conversation with other management

employees that “when the cat is away, the mouse will play.” Angelone attempted to make yet another complaint to HR about Supervisor Manca’s conduct, but HR never returned Angelone’s phone calls, further dissuading her from making complaints in the workplace. Since January 2008, Angelone had attempted to apply for positions to transfer away from Supervisor Manca, to no avail. As a reasonable person, Angelone had been dissuaded yet again from making complaints in the workplace based on the defendant’s refusal to take any remedial action. On March 31, 2008, Angelone filed her initial charge of discrimination charging the defendant with unlawful discriminatory practice relating to employment in violation of Title VII of the Civil Rights Act of 1964 (hostile environment on the basis of sex/retaliation) and the New York State Executive Law, Article 15, Section 296, of the State of New York Human Rights Law, and for retaliation under those statutes as well, as well as for perceived disability under the ADA. Thereafter, Angelone was subject to further retaliatory harassment. Senior staff removed Angelone from the (SP & L) staff meetings for which Angelone had previously attended. Senior staff removed Angelone from distribution for (MBB) and (SP & L) communications for which she had previously been a recipient. Angelone was further denied any meaningful or additional work by Supervisor Menca. Further, on June 12th, 2008, *Supervisor Menca reported Angelone to the defendant’s Ethics Committee*, compelling senior staff members to approach Angelone in front of peers and

subordinates that HR and Security would like to speak to her, further humiliating her in the workplace. On July 1st, 2008, HR contacts Angelone and asks her “what does she want” with regard to her complaint of discrimination, but fails to take any remedial action whatsoever. On August 21st, 2008, Angelone is admonished by senior management that ***she can no longer make complaints to HR***, but must complain directly to Supervisor Manca, *the very individual she claims is creating a hostile environment*. Angelone is admonished by senior management that she must report all complaints to Supervisor Manca, *whether she is comfortable with him or not*. On September 8th, 2008, senior management sent to Angelone a written “Complaint Resolution” statement, in which, for some odd reason, it is pointed out to Angelone that “the complaint you made in 2007 was quickly and thoroughly investigated at that time” further disciplining Angelone for sending an email to Supervisor Menca deemed “not appropriate.” On September 23rd, 2008, Angelone is compelled yet again to file another charge of discrimination with the EEOC setting forth in good faith what she believed to be retaliation for having filed her first charge of discrimination with the EEOC. The defendant took no further remedial action with regard to Angelone’s complaints. Left with the prospect of being further harassed, humiliated and retaliated against, having been admonished that she could make no further complaints to defendants HR department, and after giving the defendant a myriad of

occasions to take remedial action, Angelone was constructively discharged from her long term position in retaliation for having engaged in protected activity on December 2nd, 2008.

63. As a direct and proximate result of defendant's willful, knowing and intentional discrimination against her, Plaintiff has suffered and will continue to suffer severe mental and emotional anguish, and she has suffered and will continue to suffer a loss of earnings and other employment benefits and job opportunities. Plaintiff is thereby entitled to general and compensatory damages in amounts to be proven at the time of trial.

WHEREFORE, Plaintiff Julie Angelone prays that judgement be entered in her favor in accord with the above captioned causes of action.

Dated: January 12, 2009
Rochester, New York

Respectfully Submitted By:

/S/ Christina A. Agola, Esq.

Christina A. Agola, Esq.

Attorneys & Counselors at Law, PLLC
Attorney for Plaintiff
2100 First Federal Plaza
28 East Main Street
Rochester, New York 14614
585.262.3320
caagola@agolalaw.com